

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
Theron Williams)	OEA Matter No. 2401-0244-09
Employee)	
)	Date of Issuance: December 13, 2010
v.)	
)	Senior Administrative Judge
D.C. Public Schools)	Joseph E. Lim, Esq.
Agency)	

Theron Williams, Employee *pro se*
Bobbie Hoye, Esq., Agency Representative

INITIAL DECISION

PROCEDURAL BACKGROUND AND FINDINGS OF FACT

On August 28, 2009, Employee, a Custodian RW-3/1, filed a petition for appeal with this Office from Agency's final decision separating him from Government service effective August 28, 2009, pursuant to a reduction-in-force (RIF). The matter was assigned to me on November 10, 2010. On November 12, 2010, I issued an Order directing the parties to attend a November 29, 2010, Prehearing Conference and to submit a prehearing statement.

Despite prior warnings that failure to comply could result in sanctions, including dismissal; Employee failed to submit a prehearing statement or to attend the conference. I sent a Show Cause Order to the address Employee had provided this Office and asked him to explain his non-compliance by December 6, 2010. To date, Employee has failed to respond. The record is closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether this appeal should be dismissed for failure to prosecute.

ANALYSIS AND CONCLUSION

OEA Rule § 622.3, 46 D.C. Reg. 9313 (1999) provides as follows:

If a party fails to take reasonable steps to prosecute or defend an appeal, the Administrative Judge, in the exercise of sound discretion, may dismiss the action or rule for the appellant.” Failure of a party to prosecute or defend an appeal includes, but is not limited to, a failure to:

- (a) Appear at a scheduled proceeding after receiving notice;
- (b) Submit required documents after being provided with a deadline for such submission; or
- (c) Inform this Office of a change of address which results in correspondence being returned.

The employee was warned in each order that failure to comply could result in sanctions including dismissal. The employee never complied. Employee’s behavior constitutes a failure to prosecute his appeal and that is sound cause for dismissal.

ORDER

It is hereby ORDERED that the petition in this matter is dismissed for failure to prosecute.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge